

Friday, 31 January 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Chambers of the Tribunal
War Ministry Building
Tokyo, Japan

PROCEEDINGS IN CHAMBERS

On

Paper No. 716 - Oral Application
to hold in abeyance the summons hereto-
fore authorized for NAKASHIMA,
Tetsugo, and to provide facilities to
propound written interrogatories to
said witness; and

Paper No. 717 - Oral Application
for order granting leave to withdraw
from the records of the Tribunal Court
Exhibits Nos. 1251, 1253-C, 2034, et al.
pursuant to previous orders of the
Tribunal.

Before:

HON. SIR WILLIAM WEBB,
President of the Tribunal and
Member from the Commonwealth of
Australia.

Reported by:

Robert B. Morse
Court Reporter, IMTFE

Appearances:

FOR THE PROSECUTION SECTION:

Captain James J. Robinson, USNR
Commander C. Cole, USNR

FOR THE DEFENSE SECTION:

Mr. Ben Bruce Blakeney, counsel
for UMEZU, Yoshijiro.

FOR THE OFFICE OF THE GENERAL SECRETARY, INTF:

Mr. Charles A. Mentz, Clerk of the Court

THE PRESIDENT: What is the application?

MR. BLAKENEY: It is quite self-explanatory, sir. The witness has been subpoenaed and the Dutch do not care to return him to Japan so I am asking leave to serve interrogatories.

THE PRESIDENT: Well, this is an order for subpoena?

MR. BLAKENEY: No, sir; the subpoena has been granted already.

THE PRESIDENT: Oh. The subpoena was granted on the 16th of September last and issued, but the person who has custody of him, or the authority, is not desirous of permitting his return to Japan. Was any reason given?

MR. BLAKENEY: Yes, sir. He is charged as a war criminal, in their jurisdiction.

THE PRESIDENT: In whose jurisdiction?

MR. BLAKENEY: The Dutch, in the Indies.

THE PRESIDENT: Well, if you insist on his production we will join issue with the Dutch.

MR. BLAKENEY: I thought it might be just as well --

THE PRESIDENT: I won't just take "no" from the Dutch.

MR. BLAKENEY: No, sir, I appreciate that.

But I thought I might be able to achieve my object by interrogatories and on the whole we might try that first and see.

THE PRESIDENT: But certainly we do not acknowledge the right of any nation to withhold any witness that the Tribunal requires. However, you do not care to do any more for the time being than interrogate him.

MR. BLAKENEY: No, sir. I think that might serve my object. But you will note that I have provided in the proposed order that the subpoena heretofore issued shall remain in full force and effect in order that if we are not content with the interrogatories we can proceed to enforce the subpoena which your Honor has heretofore granted.

THE PRESIDENT: I will make the order as prayed, Major Blakeney.

MR. BLAKENEY: Thank you, sir.

CAPTAIN ROBINSON: This is a request for an order implementing the oral authorization for permission granted me in Court for withdrawal of original records. The Clerk has listed specifically the records that were intended in the oral record. Of course, I did not recite them in Court.

THE PRESIDENT: Well, have you served this

on the defense?

CAPTAIN ROBINSON: The defense, of course, raised no objection, in fact I think acquiesced in or agreed to the request as granted in Court, open Court.

THE PRESIDENT: Do you recollect the occasion, Major?

MR. BLAKENEY: I am sorry, sir, I am not familiar with this matter.

THE PRESIDENT: Give you the page of the record, Captain Robinson?

CAPTAIN ROBINSON: Yes, sir, they are cited there; the records are cited right here, page 3. Certain of the records are from the Swiss Legation and Mr. Bossi has informed me that they do wish to have those returned. In fact, I receipted for them. And others are from the Navy Department files which I also gave a personal receipt for.

THE PRESIDENT: Are these all about the breaches of the Red Cross Convention?

CAPTAIN ROBINSON: No. One of them has to do, for example, with the records of the atrocities committed on Pacific islands. For identification I produced the transcripts of those records of the military commission that sat at Guam and, of course, that transcript was introduced with the intention that

it be offered only for identification. The excerpts, of course, were offered in evidence.

THE PRESIDENT: Well, you cannot take them away until you have in their place the certified duplicates or copies.

CAPTAIN ROBINSON: That is true; yes, sir. I will see to that.

THE PRESIDENT: The application is granted on those terms, that the certified duplicate copies are to be in the file and checked with the original before the original is removed.

CAPTAIN ROBINSON: Yes, sir. Anything further, Mr. Clerk?

CLERK OF THE COURT: Ask him how far the duplication and copies shall go; whether they are just to go to the parts and extracts which have been put into evidence or whether they go to the entire document.

CAPTAIN ROBINSON: The later instance would take a good deal of copying. For example, those transcripts of the record from the military commission at Guam, of course, those are pretty thick transcripts. I take it what we are to certify as a true and correct copy here is just those parts introduced in evidence.

THE PRESIDENT: That raises a nice point.
The defense may want to tender material you did not
tender and have to take --

CAPTAIN ROBINSON: Well, that was submitted,
sir, to the defense.

THE PRESIDENT: And they were satisfied?

CAPTAIN ROBINSON: Yes.

THE PRESIDENT: We can get them back if
necessary.

CAPTAIN ROBINSON: Oh, yes; yes, sir. I
will be responsible.

THE PRESIDENT: That is a further condition,
that the documents will be returned on the order of
the Court if required in the interest of a fair trial --
the original documents.

CAPTAIN ROBINSON: I see.

THE PRESIDENT: That covers it, Captain?

CAPTAIN ROBINSON: Yes, sir.

(Whereupon, at 1315, the proceedings
were concluded.)

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